

October 16, 2022

VIA ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Rashid Sultan Rashid Al Malik Alshahhi, et al., 1:21-cr-371 (BMC) (S-1)

Dear Judge Cogan:

Defendant Thomas J. Barrack, Jr. requests that the Court preclude the Government from presenting a portion of a summary chart it intends to show the jury tomorrow, GX 709 (attached hereto as Exhibit A). The summary chart is a compilation of telephone calls and text message exchanges derived from the AT&T records for Mr. Barrack's cell phone. At the bottom of each page of the demonstrative, the Government has provided a key that identifies phone numbers as being associated with certain individuals. For a handful of entries, on pages 3-4 of the demonstrative, the Government identifies an individual associated with an unknown UAE phone number as "Boss." It appears that the Government's choice of the term "Boss" to describe the phone number is derived from how the number is saved in the contact list—not of Mr. Barrack—but of Khalifa Al Ghafli.

Mr. Barrack respectfully requests that the Court order the Government to replace the reference to "Boss" with a neutral substitute such as "Unknown." The use of the word "Boss" in the demonstrative is highly prejudicial to Mr. Barrack and would mislead the jury into thinking that Mr. Barrack referred to whoever is associated with the unknown person's phone number as his "Boss," an assertion the Government has no evidence to support. The reference to "Boss" should therefore be precluded under Fed. R. Evid. 403.

Respectfully submitted,

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